

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

FREEDOM FROM RELIGION)	
FOUNDATION, INC.,)	
)	Case No. 12-CV-818
Plaintiff,)	
)	
v.)	
)	
DOUGLAS SHULMAN, COMMISSIONER)	
OF THE INTERNAL REVENUE SERVICE,)	
)	
Defendant.)	

ANSWER

The defendant, by and through its undersigned counsel, hereby answers the complaint in this case as follows:

1. The defendant admits that plaintiff seeks the relief described in paragraph 1 but denies that plaintiff is entitled to any such relief and denies that defendant's actions violate the Establishment Clause and/or plaintiff's Equal Protection rights.
2. The defendant admits that plaintiff seeks the relief described in paragraph 2 but denies that plaintiff is entitled to any such relief.
3. The defendant admits that this Court has jurisdiction over federal questions pursuant to 28 U.S.C. § 1331 and admits that 28 U.S.C. § 2201 provides the Court with authority to issue declaratory judgments; but the defendant denies that this Court has jurisdiction with respect to the relief sought against the defendant, denies that 28 U.S.C. § 1343 provides authority for the Court to award injunctive relief against the defendant, and denies that Fed. R. Civ. P. 65 provides authority for the Court to award the injunctive relief plaintiff seeks.

4. To the extent a response is required to paragraph 4, the defendant denies that the 5 U.S.C. § 702 contains a waiver of sovereign immunity in this case.

5. Admit.

6. The defendant admits that FFRF is a tax-exempt non-profit membership organization under § 501(c)(3) of the Tax Code, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 of the complaint, and therefore denies those allegations.

7. Admit.

8. Admit.

9. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the complaint, and therefore denies those allegations.

10. The defendant admits that Douglas Shulman was sued in his official capacity; the defendant denies that Douglas Shulman is the commissioner of the IRS; the defendant further avers that Daniel Werfel has been serving as interim acting IRS commissioner since May 22, 2013.

11. The allegations in paragraph 11 of the complaint contain legal conclusions to which no response is required.

12. Admit.

13. Admit.

14. Admit.

15. Admit.

16. Admit.

17. Admit.

18. Admit.

19. Admit.

20. Admit.

21. Deny.

22. The allegations in paragraph 22 of the complaint contain legal conclusions to which no response is required. To the extent a response is required, however, the defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the complaint, and therefore denies those allegations.

23. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the complaint, and therefore denies those allegations.

24. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the complaint, and therefore denies those allegations.

25. The allegations in paragraph 25 of the complaint contain legal conclusions to which no response is required. To the extent a response is required, however, the defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 of the complaint, and therefore denies those allegations.¹

26. Deny.

27. Deny.

¹ Moreover, to the extent that paragraph 25 of the complaint calls for a response that would require the disclosure of return information of third-parties, such disclosure is prohibited by law pursuant to 26 U.S.C. § 6103.

28. Deny.

29. Deny.

30. Deny.

31. Deny.

32. The defendant denies that the IRS has a policy of non-enforcement of the political activity restrictions of § 501(c)(3) against churches and other religious organizations.

33. Deny.

34. The defendant denies that the IRS has a policy of non-enforcement of the political activity restrictions of § 501(c)(3) against churches and other religious organizations.

35. Deny.

36. Deny.

37. The defendant denies that the IRS has a policy and practice of non-enforcement of the political activity restrictions of § 501(c)(3) against churches and other religious organizations.

38. The defendant admits that plaintiff seeks the relief described in paragraph 38 but denies that the IRS's administration of § 501(c)(3) is discriminatory.

39. The defendant denies that the IRS has a policy of non-enforcement of the political activity restrictions of § 501(c)(3) against churches and other religious organizations.

40. Deny.

WHEREFORE the defendant respectfully requests that this Court deny the relief requested in the complaint, dismiss the complaint, and grant such further relief as the Court

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deems proper and just, including the costs of this action.

Dated: August 27, 2013

Respectfully submitted,

/s/ Richard G. Rose

RICHARD G. ROSE

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CERTIFICATE OF SERVICE

I certify that, on August 27, 2013, service of the foregoing ANSWER was made upon Plaintiff by filing it with the Clerk of the Court using the CM/ECF system.

/s/ Richard A. Schwartz
RICHARD A. SCHWARTZ